

**REMARKS**

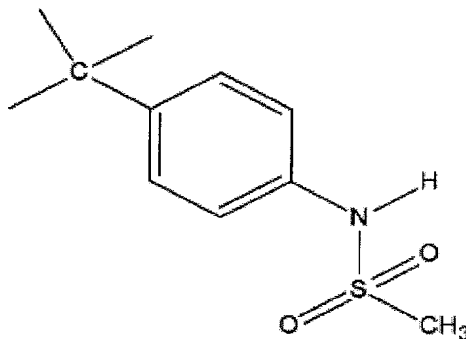
By this amendment, the claim 20 has been renumbered to correct the fact that it was inadvertently misnumbered as claim 21 in the Preliminary Amendment of December 30, 2005. Clarifying amendments also have been made to claim 29 without any change of scope or intended meaning. No new matter is added by the amendments.

Applicants note that claims 1-14, to which the Office Action is directed, were canceled by the Preliminary Amendment submitted December 30, 2005 and replaced by new claims 15-29, thereby making the Office Action moot. However, in an effort to advance prosecution, Applicants will attempt to apply the Office Action, insofar as possible, to pending claims 15-29.

Responsive to the requirement for restriction Applicants hereby provisionally elect the compounds in which A represents an amide group. This provisional election is made with traverse.

The restriction requirement is respectfully traversed because it is based on an erroneous analysis of the claims. The Office Action asserts that the claimed compounds lack a corresponding special technical feature because the group A may have different meanings which are structurally disparate. This conclusion is incorrect because it is based upon an analysis of only part of the claimed molecules. An analysis based upon only parts of the molecule which differ from each other is improper. Under such an analysis, the compounds will always appear different because only differences are considered. A proper analysis must consider the compounds as a whole and determine whether there is any substantial common structure in the claimed compounds. That is to say, a proper analysis cannot be based on whether or not there are differences in the claimed molecules because any claim which covers more than a single molecule will always have parts which differ. Rather a proper analysis must be focused on whether or not the molecules have substantial structure in common. If so, this common structure may serve as a linking special technical feature conferring unity of invention under PCT Rule 13.2 notwithstanding the presence of differences in other parts of the molecule.

In the present case, the claimed molecules all share the 4-(methylsulfonylamino)phenylmethyl structure depicted by the following structural formula:



This common structure far outweighs the group A and is believed to confer upon the claimed compounds their common property of being vanilloid receptor antagonists. Thus, the claimed compounds all satisfy the criteria for unity of invention as set forth in M.P.E.P. § 803.02 and may properly be included in a Markush claim as they have been in the present application. The attempted restriction is therefore not justified, and reconsideration and withdrawal thereof are respectfully requested.

Responsive to the requirement for election of species, Applicants hereby elect the compound N-(4-*tert*-butylbenzyl)-2-[3-fluoro-4]methylsulfonylamino)-phenyl]propionamide. The elected compound corresponds to a compound of Formula I in which:

R<sub>1</sub> is F;

R<sub>2</sub>, R<sub>3</sub>, R<sub>4</sub> and R<sub>5</sub> are each H;

R<sub>6</sub> is methyl;

A is NHCO; and

B is the group I-1 in which:

C is methylene; and

R<sub>7</sub> is 4-*tert*-butyl..

This species election is made without traverse. Claims 15-17 and 24-29 are deemed to read on the elected species.

Application No. 10/562,698  
Reply to Office Action  
July 28, 2009


The application is respectfully submitted to be in condition for allowance, and prompt, favorable action thereon is earnestly solicited.

If there are any questions regarding this Reply or the application in general, a telephone call to the undersigned at (202) 624-2845 would be appreciated since this should expedite the examination of the application.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 029310.57239US).

Respectfully submitted,

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